

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) 8:08CR195
)
JAMES ASMUS,) **PRELIMINARY ORDER**
) **OF FORFEITURE**
)
Defendant.)

NOW ON THIS 3rd day of December, 2008, this matter comes on before the Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture. The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. The Defendant has agreed to plead guilty to Counts I and II of said Superceding Indictment. Count I charges the Defendant with one count of being an unlawful user of and addicted to a controlled substance in possession of firearms, in violation of 18 U.S.C. § 922(g)(3).
2. Count II of said Superceding Indictment sought the forfeiture, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), of the following:
 - a. a Ruger .22 cal rifle Model: 10/22 serial number: 241-32298;
 - b. Remington .270 cal bolt-action rifle Model: 700 serial number: A6203080;
 - c. Browning 12 ga. Shotgun Model: Light Twelve serial number: 56224;
 - d. Remington 12 ga. Shotgun Model: 11-87 serial number: PC024192;
 - e. Winchester .264 caliber rifle Model: 70 serial number: 476643;
 - f. Unknown tactical type 12 ga. Pump shotgun serial number: L3210491;

- g. Remington 7m bolt action rifle Model: 700 serial number: C6866509;
- h. Winchester 30-30 caliber rifle Model: 94 serial number: 2010335;
- i. Winchester 12 ga. Pump shotgun Unknown model serial number: 384831;
- j. Remington .270 cal rifle Model: 700 serial number: C6560244;
- k. Colt .223 cal semi-auto rifle Model: AR 15 A1 serial number: SP337702;
- l. Savage Arms .22 cal break-open rifle Model: 24 S-A serial number: None;
- m. Winchester .22 cal pump rifle Model: 6 serial number: 813157;
- n. Professional Ordnance INC. 5.56 cal rifle Model: Carbon 15 serial number: C03695;
- o. Poly Technologies Model: AKS 762 7.62 x 39 mm cal semi-auto rifle serial number: PF-07100; Remington 12 ga. Pump shotgun Model: 10 serial number: 248659;
- p. Gesichert 9mm pistol Model: 1920/1918 serial number: 6868;
- q. Ruger .22 caliber pistol Model: Mark II Target Serial number: 212-97799;
- r. Colt .45 caliber revolver Model: Virginian Dragoon serial number: D 0072;
- s. J Stevens & Arms 12 ga. Pump shotgun Model: unknown serial number: 29404;
- t. Trail Guns Armory Model: unknown 45-70 caliber rifle serial number: C5494;
- u. Ithaca 12 ga. Double barrel shotgun Model: unknown serial number: 359735;
- v. Barretta 12 ga, double barrel shotgun Model: S 686 serial number: U01805B.

on the basis they were firearms involved or used in the knowing commission of the offense charged in Count I.

3. By virtue of said plea of guilty, the Defendant forfeits his interest in the subject properties, and the United States should be entitled to possession of said properties, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

4. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is hereby sustained.

B. Based upon Count II of the Superceding Indictment and the Defendant's plea of guilty, the United States is hereby authorized to seize the following-described properties

- a. a Ruger .22 cal rifle Model: 10/22 serial number: 241-32298;
- b. Remington .270 cal bolt-action rifle Model: 700 serial number: A6203080;
- c. Browning 12 ga. Shotgun Model: Light Twelve serial number: 56224;
- d. Remington 12 ga. Shotgun Model: 11-87 serial number: PC024192;
- e. Winchester .264 caliber rifle Model: 70 serial number: 476643;
- f. Unknown tactical type 12 ga. Pump shotgun serial number: L3210491;
- g. Remington 7m bolt action rifle Model: 700 serial number: C6866509;
- h. Winchester 30-30 caliber rifle Model: 94 serial number: 2010335;

- i. Winchester 12 ga. Pump shotgun Unknown model serial number: 384831;
- j. Remington .270 cal rifle Model: 700 serial number: C6560244;
- k. Colt .223 cal semi-auto rifle Model: AR 15 A1 serial number: SP337702;
- l. Savage Arms .22 cal break-open rifle Model: 24 S-A serial number: None;
- m. Winchester .22 cal pump rifle Model: 6 serial number: 813157;
- n. Professional Ordnance INC. 5.56 cal rifle Model: Carbon 15 serial number: C03695;
- o. Poly Technologies Model: AKS 762 7.62 x 39 mm cal semi-auto rifle serial number: PF-07100; Remington 12 ga. Pump shotgun Model: 10 serial number: 248659;
- p. Gesichert 9mm pistol Model: 1920/1918 serial number: 6868;
- q. Ruger .22 caliber pistol Model: Mark II Target Serial number: 212-97799;
- r. Colt .45 caliber revolver Model: Virginian Dragoon serial number: D 0072;
- s. J Stevens & Arms 12 ga. Pump shotgun Model: unknown serial number: 29404;
- t. Trail Guns Armory Model: unknown 45-70 caliber rifle serial number: C5494;
- u. Ithaca 12 ga. Double barrel shotgun Model: unknown serial number: 359735;
- v. Barretta 12 ga, double barrel shotgun Model: S 686 serial number: U01805B.

C. The Defendant's interest in said properties is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C., § 853(n)(1).

D. The aforementioned forfeited properties are to be held by the United States in its secure custody and control.

E. Pursuant to 21 U.S.C., § 853(n)(1), the United States forthwith shall publish for at least thirty consecutive days on an official government internet site (www.forfeiture.gov) notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the properties in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject forfeited properties must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the properties, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject properties and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the properties subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C., § 853(n), in which all interests will be addressed.

ORDERED this 3rd day of December, 2008

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON, CHIEF JUDGE
United States District Court